

REMARKS

Claims 1-5 are pending in the application. These claims were rejected under 35 U.S.C. §103(a) as being obvious over Buettner (U.S. patent no. 4,831,655) in view of Olsen (European patent publication EP 0 988 776).

5 Applicant has provided discussion for distinguishing the present invention from the art cited against it. Claim 6 has been added, and Applicant respectfully requests entry and consideration of this claim in the next office action.

Applicant's use of reference characters below is for illustrative purposes only and is not intended to be limiting in nature unless explicitly indicated.

10 **35 U.S.C. §103(a), CLAIMS 1-5 OBVIOUSNESS OVER BUETTNER IN VIEW OF OLSEN**

1. *The combination of Buettner and Olsen fails to disclose a stabilization element of the housing, but rather disclose an element of an inserted electronics module.*

In the OA on pp. 2-3, the Examiner stated that Beuttner teaches:

15 a hearing aid device wearable in the ear with a housing comprising at least one acceptance (Fig.3, Items 30 and 32) for pivoted attachment configured to swivel in and swivel out a battery loader (Fig.3), a housing opening (Fig.3, Item 48) through which the
20 battery loader can be swiveled in and swiveled out (Fig.3; Col.2, Line 4 -Col.3, Lines 31)...

However, the Examiner noted that Buettner fails to disclose a stabilization element to stabilize the housing in the area of the housing opening, attached to the housing and at least partially surrounding the housing opening. The

25 Examiner then applied the Olsen reference as teaching:

5 a hearing device (Fig.1) comprising a battery loader (Fig.1, Item 3) and a stabilization element (Figs.2, 6 and 7) to stabilize the housing in the area of the housing opening, attached to the housing (Fig.2) and at least partially surrounding the housing opening (Figs.1, 2,6 and 7; ¶ [0015] —[0021], [0024]— [0025] and [0033]).

The Examiner then stated that it would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Olsen configuration with the Buettner design because the Olsen configuration would provide a secure attachment of the battery loader to the housing in addition to provide the electric connections needed to supply energy from the battery to the electronic control system.

15 However, Applicant respectfully disagrees with the Examiner's characterization of the Olsen reference's teaching and its applicability to the present invention, as claimed.

The present invention relates to a hearing aid that can be carried in the ear with a case and a battery charging device which is exposed to high mechanical loading. In order to improve the attachment of the battery charging device to the case of the hearing aid, a stabilizing element for the battery charging device is provided in the region of the case opening, this element preventing deformations and in particular distortions of the case in the region of the case opening in the case of high mechanical loading.

25 With regard to Olsen, it is clear from Figures 2, 6 and 7 that the holding part 11 in the case of Olsen does not clasp the marginal area of the case opening in the hearing aid. To the contrary, the holding part 11 rests only on

crosspieces, which are formed by recesses 14 and 15 (compare Figure 3). As a result, a distortion of the case in the region of the case opening is not prevented.

The holding part 11 thus does not act as a stabilizing element with regard to the marginal area of the case opening.

5 It is important to note that in the present invention, the stabilization element is claimed as an actual element of the housing. Element 11 (socket part) of Olsen is not a part of the housing, but rather is a part of the electronics module 4 that is inserted into the housing (see paragraph [0015]). The protruding lugs 19 in Olsen are a part of this socket part 11 (and thus, the
10 electronics module 4), not the housing/faceplate 2, as required by the claims of the present invention.

 This distinction is not simply cosmetic, as the combination of Olsen with Buettner does not solve the problem addressed by the structure presented in the claims of the present invention, namely to provide a stabilization element of the
15 housing that prevents distortions of the housing in an acceptance area. Applicant has added claim 6 which further highlights this distinction; support for claim 6 can be found in paragraph [0008] of the present application.


 For these reasons, Applicant asserts that the claim language clearly distinguishes over the prior art, and respectfully requests that the Examiner
20 withdraw the §103(a) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered, the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

10

 (Reg. No. 45,877)

Mark Bergner
SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 Sears Tower
Chicago, Illinois 60606-6473
(312) 258-5779
Attorney for Applicants
Customer Number 26574

15

CERTIFICATE OF MAILING

20

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on April 25, 2006.

25

